

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

<b>USDS SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> DOC #: DATE FILED: <b>MAR 05 2007</b>
--

2007 (w)

KEVIN KEATING,

Petitioner,

06 CIV 3679 (PAC) (GWG)

UNITED STATES OF AMERICA

ORDER

Respondent.

-----X

HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner Kevin Keating filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on May 15, 2006, seeking to require the Bureau of Prisons ("BOP") to determine whether Petitioner Keating should be transferred to a community corrections center without reference to the February 2005 BOP Rule.

On August 10, 2006, the petition was referred to Magistrate Judge Gabriel W. Gorenstein for a Report and Recommendation ("R&R"). On November 9, 2006, Magistrate Judge Gorenstein issued his R&R recommending the dismissal of the petition as moot. Magistrate Judge Gorenstein referenced the Government's October 13, 2006 letter, which informed the Court that the February 2005 BOP Rule at issue had been invalidated in Levine v. Apker, 455 F.3d 71 (2d Cir. 2006). Consequently, the BOP reviewed Petitioner's community corrections center placement date without reference to the February 2005 BOP Rule, and determined that Petitioner would be so transferred on or about January 23, 2007. Therefore, Petitioner has been afforded the relief he sought, and the petition is moot.

MICROFILM

MAR - 5 2007 - 3 02 PM

No objections to the R&R were received. Accordingly, the Court adopts the R&R in its entirety, and dismisses the petition as moot. The Clerk of Court is ORDERED to close out this case.

Dated: New York, New York  
March 7, 2007 *PAC*

SO ORDERED

*Paul A. Crotty*  
\_\_\_\_\_  
PAUL A. CROTTY  
United States District Judge

**Copies Mailed By Chambers**